UNITED STATES DISTRICT COURT:
WESTERN DISTRICT OF NEW YORK
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IN THE MATTER

of

Petition
No. 2272-P-24049

The Petition of TIMOTEO ANDRADE
to be admitted a Citizen of the
United States of America.

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Appearances: Arthur J. Karnuth, District Director of Immigration and Naturalization, by Ralph L. White, Designated Examiner;

Frederick T. Devlin, for Petitioner.

KNIGHT, District Judge: Heretofore this court denied the petition for citizenship of Timoteo Andrade. An affidavit of petitioner was then presented by petitioner setting forth that he is of Indian and Spanish blood in equal proportions. After the denial of the petition aforesaid, a re-hearing was had before the designated examiner and additional proofs are now submitted to this court upon an application for a re-hearing on the petition for naturalization. As stated in my prior opinion, quoting from Morrison v. California, 291 U. S. 82: " x x x men are not white if the strain of colored blood in them is a half or a quarter, or, not improbably, even less, the governing test always x x x being that of common understanding." Other authorities quoted in such opinion fully sustain the conclusion that where one is half Indian and half Spanish blood he is not entitled to naturalization under the provisions of Section 359, Title 8, of the U. S. Code.

A different state of facts is now presented. The father of petitioner has long since died. The mother, Maria Bera Andrade, testified upon the re-hearing before the

examiner. While her testimony is somewhat obscure, I think the construction that may be placed upon it is that this petitioner is of little Indian blood; that is about two percent. The petitioner, also, on the second examination, in effect, denied the statements made in the first proceeding that he was 50 to 75 percent of Indian blood. He claimed he was in mistake in this and offers explanation for such mistake. It appears by his statement now made that he has small percent, if any, of Indian blood in him. The examiner makes report to the court: "It is believed that x x x testimony conclusively shows that the petitioner was in error when he stated, at the time of his preliminary examination on March 12, 1935, that he was fifty per cent Indian blood." The government has withdrawn its objections herein and recommended that citizenship be granted.

It is my opinion under the facts as they are now disclosed the motion should be granted.

June 1, 1936

United States Distridt Judge

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Petition No. 2272-P-24049

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OPINION

KNIGHT, District Judge

FILED
JUN -1 1936
AT.....O'C.....M.
May C. Sickmon, Clerk.